

Appl. No. 10/632,407
Docket No. T-707 (Z-03467)
Amdt. dated September 25, 2006
Reply to Office Action mailed on June 30, 2006
Customer No. 27752

REMARKS

Claim Status

Claim 16 has been canceled without prejudice. Claims 1-15 and 17-23 are currently pending, of which claims 15 and 21-22 have been amended to clarify the inventions being recited by the respective claims. The amendments to claims 15 and 21-22 do not narrow the scope of that which was originally filed.

Claims Rejections

Claims 15-22 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. The office action notes that recitation of "predetermined extent" renders the claims indefinite. Applicants have amended claim 15 by deleting the objectionable language, and have canceled claim 16. Reconsideration and withdrawal of the Section 112 rejection accordingly is requested.

Claims 1-23 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Angelone, Jr. *et al.* (U.S. Patent No. 5,587,153; hereinafter "Angelone") in view of Nichols (U.S. Patent No. 5,000,947; hereinafter "Nichols"). Applicants respectfully disagree since there is no motivation or suggestion to combine the respective teachings of Angelone and Nichols.

Angelone discloses clear gel-type cosmetic products, but is silent regarding employment of visible capsules. Nichols discloses shaped articles made from compacted liquefiable powder. The liquefiable powders can contain various agents, such as, for example, colorants, emollients, and moisturizers. The powder is compacted to form shaped articles, such as cakes, sticks and other compacts.

The office action states that "[i]t would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the visible cellulosic capsules of Nichols into the antiperspirant or deodorant compositions . . . of Angelone." Applicants respectfully disagree since Nichols teaches away from such a modification of the Angelone compositions. Nichols states, in the Summary of the Invention, that "[s]haped articles made in accordance with the present invention permit the delivery of high concentrations of active agents without the problems normally associated with

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liquids and oils" (*see* column 1, lines 56-59). The clear gel compositions of Angelone include emulsions comprising a water phase and an oil phase. Since *Angelone is silent with respect to the inclusion of visible capsules*, and *Nichols teaches away from including its liquefiable powders in liquids and oils*, there is no motivation or suggestion to combine these references. Thus, a *prima facie* case of obviousness has not been established, and the Section 103 rejection should be withdrawn.

Moreover, the office action fails to address many of the patentably distinct features recited in the dependent composition claims, including, for example, specific capsule hardness as recited in claims 5, 7, and 8, and capsule hydration as recited in claims 6 and 7. Even assuming *arguendo* that there is proper motivation or suggestion to combine the disclosures of Angelone and Nichols, these references, when combined, do not teach or suggest the inventions recited in claims 5-8. Method claims 15-23 are also patentably distinct from the Angelone and Nichols.

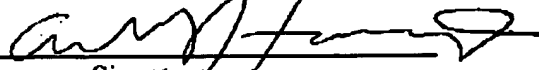
In view of the foregoing, Applicants respectfully request reconsideration and withdrawal of the Section 103 rejection.

Conclusion

This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of claims 1-15 and 17-23 are all respectfully requested.

Respectfully submitted,

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By 
Signature

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